

# **Rod Kovel**

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Mr. Ajit Pai  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Dear Mr. Pai:

Re: The Failure of the V-Chip  
Proceeding 19-41

The V-chip experiment has devolved into a massive, systemic fail. Worse yet, the FCC has been deliberately blind to this, as I will demonstrate.

This can and should be fixed ASAP.

## **Background**

On a Friday or Saturday during Christmas week 2017, I woke up on the couch in the middle of the night and channel surfed until I eventually reached a "Showtime After Hours" film on the Showcase Extreme channel. I believe the film was "The Submission of Emma Marx 3," film that may now be called "The Submission of Emma Marx: Exposed." It might have been "The Submission of Emma Marks 4HD" which has several extended sex scenes, including a 15 or so minute ménage à trois near the end.

The role of Emma is played by Penny Pax, who is described as "a busty young blonde with a can-do attitude and a penchant for letting her body get used as a filthy fuck-puppet for the nastiest action known to man" at <https://www.pornhub.com/pornstar/penny-pax>. She has played many such roles in triple X films.

It is probably illegal for me to send images of what I saw, so a description will have to suffice.

It was 5 minutes of porn on a network that usually does not show that. We begin in a well lit room with a couple in bed but with the blankets are pulled down. A naked man's face is buried in a naked woman's crotch. He is performing cunnilingus while he caresses her bare breasts. Cut to a close up of her face as she moans near, at, and past climax. Then cut to the woman lying between his legs while she fellates him. As I recall, at that point he is heard moaning.

I didn't see below the waist genitalia, but the angle and resolution of the video left no doubt the oral sex was real. As a matter of the laws of physics which say two objects cannot be in the same place at the same time, a woman cannot rest her forehead onto a man's pubic hairs when the rest of her is positioned between his legs unless his penis is in her mouth. Camera tricks cannot fake a crotch close up that is that close up.

Not a real word was spoken, so I can't tell if whatever plotline that may or may not have had socially redeeming value and sat outside the exclusively prurient interest was somehow ad-

vanced based by these scenes, but plot advancement seems unlikely, given that the description of the film is “Emma’s life takes an unexpected twist, she’s left wondering whether she’s cut out for a BDSM relationship.” (I found this description at <https://porntube18.cc/newsensations-com-the-submission-of-emma-marx-3-aidra-fox-penny-pax-richie-calhoun-2016-step-family/>).

Granted it was about 4AM when the movie was on.

I am not a prude and I have no objection to consenting adults having oral sex on camera.

But where I draw the line is that parents must be able to retain exacting control of what appears on the TVs in their homes.

My son was only 16 at the time and I didn’t want him seeing smut on the tube as broadcasted, using a DVR or using the On-Demand features provided by Showtime.

So I tried the V-chip for the first time to see if I could prevent “The Submission of Emma Marks 3” and other smut just like it from showing up in our house.

I assumed this would be an easy task, as smut, is typically rated “NC-17” or “X,” which I expected to be easy to control with a V-Chip.

However, I almost immediately determined Showtime had down rated film to merely “TV-MA. ” In fact, all created for TV smut it shows is rated as TV-MA. This is the same rating as “The Walking Dead” or “South Park,” an animated series about children. Same as “13 Reasons Why,” which was recommended by my son’s high school.

So the rating system turned out to be all but useless to defend against smut that is deliberately underrated by the broadcaster.

Not that that really mattered. I also soon discovered a catastrophic failing of the V-Chip.

Despite 47 CFR 15.120 (d)(2), the parental control mechanisms of new our 65 inch High Def Samsung TV are disabled when video comes through a cable box. A government mandated layer of protection that I paid for when I bought a TV with a V-chip really doesn’t exist at all.

Instead, the sole protection against smut is that offered by the cable provider, in our case, Verizon. Its system is no better. Its ability to block smut is so extremely crude as to be all but totally useless too.

Verizon has the capacity to block “NC-17” and “X” rated material. But because Showtime and other networks refuse to correctly rate created for TV smut as NC-17 or X – maxing out at TV-MA – Verizon subscribers are paying for useless tech that does not stop TV porn.

Verizon offers a very small number of options if they are trying to prevent children from accessing misrated smut at the time of broadcast.

- Total block all “TV-MA” content 24/7/365. Since much good TV acceptable for teen viewing is properly rated TV-MA, a total block to prevent everything that is in that category is excessive and produces bad results in leaving families without a working tv for teens unless a parent is personally present to unblocks it with a password and re-block it when the show ends.
- Specified time blocking of all “TV-MA.” This is basically the same hassle as the above. A family has no working tv during the blocked hours unless a parent is home and able to unblock it;

- Individual channel blocks 24/7/365. Same hassle, just one channel at a time.
- Item blocks. This requires parents to evaluate every show on a 1000 channel cable package and the ability to divine porn content from a short description.

Parents may either block either all items that can be ordered on demand or none regardless of rating. There is no in-between.

There would seem to be no technical reason why a parent cannot block shows based on a rating sub-specification of “TV-MA S”, ie, explicit sexual content, and no reason why they cannot opt for automated blocking based on titles or descriptions. That would be useful. But we can’t. It doesn’t exist in our world.

So the result is that the ratings are not only phoned up, but they are meaningless anyway. Parents need to be a TV 24/7/365 sentries now as much as he was in the 1990’s – a now impossible task because there are so many channels and so much smut and so many poor options to try to stop it.

So the elaborate scheme cooked up has become an expensive failure. It does not work because the broadcasters and cable providers don’t participate.

Finding this situation appalling, I wrote hard copy letters to the parent companies of Showtime, namely CBS and Sony, asking them to revisit the ratings on their oral sex movies.

This was something broadcasters had explicitly promised when the FCC imposed the V-chip requirement in March, 1998. One of the things the FCC in noted in its statement of findings was that although compliance with the rating scheme was voluntary, the entertainment industry had fully embraced it and that it had established a 24 member “Oversight Monitoring Board to ensure that the rating guidelines are applied accurately and consistently....”

In 2004, there was testimony to the Senate from the industry. “We are the institution that is there to guarantee the integrity of the system.” See <https://www.gpo.gov/fdsys/pkg/CHRG-108shrg81139/pdf/CHRG-108shrg81139.pdf>.

Though an over the air broadcaster like CBS has been given free airwaves and is legally obliged to serve the public trust, and despite specific promises to Congress that reviews were going to be an aspect of the V-chip program, the content conglomerate ignored my correspondence and continued to produce and air smut.

After CBS and Sony failed to address my concerns, I next tried to contact the industry oversight board, now known as the Parental Guidelines Monitoring Board, which the industry said was “the institution that is there to guaranty the integrity of the system.”

The Board’s website, [www.tvguidelines.org](http://www.tvguidelines.org), specifically invited consumer complaints “via mail, phone or e-mail.” Despite inviting called in complaints, it peculiarly did not publish its phone number or mailing address on its website. But these turned up in a Google search.

In due course, I sequentially – and futilely – availed myself of all three options. There was never a response to my email. Its phone was disconnected. Paper mail simply asking if the Board was still running went unanswered and proabably remains unopened in a post office box somewhere in Washington.

So it seemed to me at the time that the multi-billion dollar entertainment industry's self-appointed body that the Senate was told existed to guaranty ratings "integrity" had vanished from the face of the Earth without a trace.

I then hit Google hard and discovered the identity of only one named member on what is supposed to be a 24-member Board: Gordon Smith, a former US senator, who was identified as its Chairman.

But there was no evidence that there really were other Board members or that the Board had ever met or done any work or that it ever really existed at all, notwithstanding Senate testimony to the contrary. (The Board website now lists Michael Powell as the chairman, but still does not identify any other members.)

I subsequently called and wrote Senator Smith to ask him about the Board and the status of my complaint, and he too ignored me, further confirming the only possible conclusion that could be reached under the circumstances: the 1998 and 2004 promises were bogus from the get go and the Guidelines Board is and was a sham.

So the whole V-chip program has basically evaporated. No one in the industry is preventing oral sex porn from getting to children at any time. The technology that is supposed to prevent it has been completely circumvented by deception.

It would seem that notwithstanding the "Family Values" nature of the leading party in Congress and in the White House, that the almighty dollar has won.

Accordingly, if the FCC was really serious about preventing kids from accessing porn, it would have noted these lapses sometime in these past 20 years to see if its regulations were useful and to force the various parties – tv makers, cable companies, and smut purveyors – to the table to figure this out upon the inescapable conclusion that they are not. It did not.

### **FCC Considerations**

But was the FCC ever serious about controlling porn? This would seem doubtful.

For this situation did not occur without your active neglect, which I would be remiss to omit from this discussion.

Not long after I realized the official Guidelines Board would never respond to a complaint it solicited and promised the Senate it would handle, I filed a written complaint with the FCC per the on-line directions set out at its website.

In due course, I had the great misfortune of having the complaint handed to Nancy Murphy at FCC complaint desk.

The telephone exchange I had with her was intolerable. The immediate reaction I got from her was a verbose but non-germane Jan. 31, 2018 email written on government time explaining how small was the government's ability to regulate indecent content on broadcast television and how it could not require advocacy of "liberal or conservative points of view."

None of that had any bearing on the issues of mislabeled hardcore porn shown on cable or the nonexistent Guidelines Board. Her email was also very much false. The FCC pursued "Nipplegate" for eight years in the courts and has not abandoned plans to continue to regulate broadcasters over accidental nudity and playground cusses.

Nevertheless, she told me, based on the foregoing non-germane considerations, that she would be roundfiling my complaint. That is the administrative equivalent of an Air Force officer ignoring an incoming blip on his radar screen, figuring he's not going to bother someone about some possible attack.

I pressed her to submit my complaint to the Commission anyway and I insisted that she have her boss confirm that it had been submitted. Since then, nothing. As best I can tell, my complaint died in her useless hands.

At the end, I was left with the conclusion that Murphy is an incompetent functionary and that work avoidance was the way you conduct business.

But maybe that assessment was actually harsh. Exactly one year ago today, I wrote to the Commission with my proof and explaining all of my concerns and additional ones. But as with everyone else mentioned in the foregoing discussion, my letter was ignored. It could have been that my letter was negligently misplaced or misdirected; the FCC has done that to me before, forwarding a complaint about a broadcaster to a non-germane department in Pennsylvania. See <https://webcache.googleusercontent.com/search?q=cache:po6qHKzGnaAJ:https://docs.fcc.gov/public/attachments/DA-08-367A1.pdf+&cd=1&hl=en&ct=clnk&gl=us&client=firefox-b-1-d>.

It could have been that I was on the shitlist for calling out Murphy for being incompetent.

But now that seems unlikely. If Murphy was just mean and incompetent, the hearing you have called on this topic would never have happened.

Maybe the FCC compromised on this topic. Is it now being undertaken following the unlikely hiring of Michael Powell for the Board – who penalized a member of the entertainment industry for the nipple slip at the Super Bowl resulting in years' long litigation – to represent it. At this point, he has done nothing to further the aim of preventing porn from being on the tube. Perhaps his turn coat result has to do with the fact his check comes from a consortium including smut makers, leading to a scenario where he rants about something he will do nothing to prevent?

We shall see.

Sincerely,

Rod Kovel